

OF NORTH CAROLINA CHARLOTTE DIVISION

CHAPTER 13 CASE NO.: 18-31436

MOTION FOR JUDGMENT ON THE PLEADINGS

COMES NOW Defendant, Vinroy W. Reid, by and through his counsel pursuant to

SUMMARY OF FACTS

1. Plaintiff Y-2 Yoga Cotswold, LLC (hereinafter, “Plaintiff” or “Y2”) filed a Complaint in this adversary proceeding on August 23, 2019(Doc. 1);

2. Plaintiff Y2 Yoga issued a Summons on Vinroy W. Reid, Defendant ; A. Burton Shuford, Defendant and V.R.King Construction, LLC., Defendant on August 23, 2019 (Doc. 2);

3. Defendant Vinroy W. Reid, (the “Debtor” or “Reid”) filed and answer to the complaint on October 23, 2019. [Doc. No. 12];

2. Defendant A. Burton Shuford, Chapter 7, Trustee for the Debtor (“the “Trustee”,) filed an answer to the Complaint on October 24, 2019 [Doc. No. 13];

3. The Defendant, Reid requests that, pursuant to Rule 201 of the Federal Rules of Evidence that the Court take Judicial Notice of the records related to state court litigation between the parties (“the state court records”) and the schedules filed in the Debtor’s bankruptcy to determine that the Debtor does not have a valid indemnity claim or a valid claim for attorney fees;

4. The allegations in the Plaintiff’s Second and Third Claims for Relief in the Complaint must be dismissed.

6. There remain no issues of material fact as alleged above. The issues remaining in this matter are purely legal or equitable in nature;

7. Defendant Reid will submit his brief regarding the above enumerated special defenses in accordance with the timeframe set by the Court.

In closing, Defendant Reid asserts that the Plaintiff has no actionable indemnity claim under the contract for the following reasons:

1. The Plaintiff has no actionable indemnity claim under the contract;
2. Y2 Yoga has no actionable claim for attorney’s fees under the contract;
2. Judicial Estoppel applies; and
3. Equitable Estoppel applies.

WHEREFORE, for the forgoing reasons the Defendant respectfully moves the Court to:

1. Grant him Judgment on the Pleadings;
2. In the alternative, grant him Summary Judgment based on the fact that there are no remaining issues of fact on legal issues; and
3. Award him such other and further relief as the Court deems just and equitable.

This is the 18th day of May, 2020.

Vinroy W. Reid

BY: /s/: Verna Bash-Flowers

Verna Bash-Flowers, His Attorney

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NOTICE OF HEARING

Vinroy W. Reid has filed a Motion for Judgment on the Pleadings or In the Alternative Grant him Summary Judgment with the Court. A copy of the Motion is attached. **Your rights may be affected.** **You should read these papers carefully and discuss them with your attorney, if you have one in the bankruptcy case. (If you do not have an attorney, you may wish to consult one.)**

A hearing will be held to consider these Motions on **June 19, 2020 at 9:30 am** in Courtroom 1-5, 401 W. Trade Street, Charlotte, NC 28202. No further notice of this hearing will be given. **All interested parties may attend and be heard. If you do not oppose the Motions you do not have to attend.** If you or your attorney oppose the Motions, you must file a Response on or before **May 29, 2020 before 5:00 pm**. If no Response is received the Court may enter an Order granting the relief.

This is the 18th day of May, 2020.

Vinroy W. Reid

BY: /s/: Verna Bash-Flowers

Verna Bash-Flowers, His Attorney

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CERTIFICATE OF SERVICE

This is to certify that this Motion for Judgment on the Pleadings/Summary Judgment was served on the following parties:

Shelley K. Abel, Bankruptcy Administrator; James H. Henderson, Counsel for Y2 Yoga Cotswold, LLC; Robert Lewis, Jr., Counsel for VR King Construction, LLC ; and A. Burton Shuford, Chapter 7 Trustee for Vinroy W. Reid and VR King Construction, LLC and all parties having requested notice under Rule 2002, via electronic mail only. The Debtor/Defendant, Vinroy W. Reid was served by e-mail only at: vinroyreid8@gmail.com.

This is the 18th day of May, 2020.

/s/Verna Bash-Flowers
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